



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EC-2002-030
II-A-010

APR 15 1997

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Drake Petroleum, Inc.
c/o Jeffrey A. Walker, Esquire
Warren Equities
470 Totten Pond Road
Waltham, MA 02154

Re: File No. AED/MSEB - 4696

NOTICE OF VIOLATION OF THE CLEAN AIR ACT

Dear Mr. Walker:

On August 28, 1996, authorized representatives of the United States Environmental Protection Agency ("EPA") inspected gasoline sold at the Xtra Mart retail station, located at 119 Main Street, Pascoag, Rhode Island. The inspection was conducted to determine compliance with section 211(k) of the Clean Air Act ("Act"), 42 U.S.C. § 7545(k), and the regulations issued thereunder (40 C.F.R. part 80, subpart D). Where inappropriate fuels are used in internal combustion engines, the emissions of harmful gases can increase significantly. Notwithstanding improvements in vehicle emission controls, emissions from motor vehicles continue to make up a very large portion of all air pollution. Congress has established a program of improvement and regulation of fuels to protect our air quality from unnecessary pollution associated with the misfueling of vehicles.

The applicable regulations provide that no person may manufacture and sell or distribute, offer for sale or distribution, dispense, supply, offer for supply, store, transport, or cause the transportation of any gasoline represented as reformulated and intended for sale or use in any covered area unless such gasoline meets the applicable standards specified in 40 C.F.R. § 80.41. This law also subjects violators to a maximum civil penalty of \$25,000 per day for each violation in addition to recovery of the amount of the economic benefit or savings resulting from the violation.

As a result of the inspection, EPA has determined that gasoline, represented to be reformulated and intended for sale or use at Xtra Mart, which is located in a reformulated gasoline covered area, was manufactured and sold or distributed, offered for sale or distribution, dispensed, supplied, offered for supply, stored, transported, or caused to be transported in violation of 40 C.F.R. § 80.78(a)(1) in that it failed to meet the applicable Reid Vapor Pressure (RVP) standard specified in 40 C.F.R. § 80.41 in violation of 40 C.F.R. § 80.78(a)(1). The gasoline had a RVP of 8.68 psi which exceeds the applicable standard of 8.3 psi. As the distributor of the gasoline and the retailer who owns, leases, operates, controls or supervises the facility where the violation was found, Drake Petroleum is liable for the violation of 40 C.F.R. § 80.78(a)(1) pursuant to 40 C.F.R. § 80.79(a)(1).

Sections 211 and 205 of the Act, 42 U.S.C. §§ 7545 and 7524, authorize the Administrator of EPA to assess a civil penalty of up to \$25,000 for every day of violation and the economic benefit or savings resulting from the violation. In determining the appropriate penalty for the noticed violation, we consider the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of your business, your history of compliance with the Clean Air Act, actions taken by you to remedy the violation and to prevent recurrence of further violations, the effect of the penalty on your ability to continue in business and such other matters as justice may require.

We encourage early settlement of such matters. The settlement process provides substantial flexibility for reducing the proposed penalty, particularly if the alleged violation is corrected promptly. If we cannot settle this matter promptly, we reserve the right to file an administrative complaint or refer this matter to the United States Department of Justice with a recommendation to file a civil complaint in federal district court.

The EPA attorney designated below has been assigned to this case. All information should be sent to the case attorney. Please contact this attorney regarding the Notice of Violation and Request for Information.

David J. Gottfried, Esquire
U.S. Environmental Protection Agency
401 M Street, S.W. (2242A)
Washington, DC 20460
(202) 564-1019

Please let me once again emphasize that while we take our obligation to enforce these requirements seriously, we will make every effort to reach an equitable settlement in this matter.

Sincerely yours,

Bruce C. Buckheit

Bruce C. Buckheit, Director
Air Enforcement Division

Judith E. Graham, Attorney
U.S. Environmental Protection Agency
Western Field Office
Mobile Source Enforcement Branch
Air Enforcement Division
12345 W. Alameda Parkway
Suite 214
Denver, CO 80228
(303) 969-6476

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Sincerely yours,

Bruce C. Buckheit

Bruce C. Buckheit
Director, Air Enforcement Division

Attachment

ATTACHMENT

| <u>Vehicle</u> | <u>Company #</u> |
|--------------------|------------------|
| 1972 Mack | 27 |
| 1969 Mack | 25 |
| 1984 International | 03 |
| 1979 Mack | 29 |